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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,127	02/08/2002	Clayton R. Rogers	01-22	1390
30699	7590	11/03/2003		
DAYCO PRODUCTS, LLC 1 PRESTIGE PLACE MIAMISBURG, OH 45342			EXAMINER CHARLES, MARCUS	
			ART UNIT	PAPER NUMBER

3682

DATE MAILED: 11/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/072,127

Applicant(s)

ROGERS, CLAYTON R.

Examiner

Marcus Charles

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-9 and 11-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9 and 11-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to the amendment filed 08-11-2003, which has been entered.

Claims 1-2, 4-9 and 11-27 are currently.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "the first and second arms of the tensioner contacting the belt" as in claim 20, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for "the first and second arms of the tensioner contacting the belt" as in claim 20. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 20 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not

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described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not clear how the first and second arms can contact the belt on opposite sides and at the same time each having a pulley engaging the belt. It would not be obvious for one of ordinary skill in the art to provide such a combination.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5, 7 –12, 15-19, 21, 23, 25 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by JP(58-178042). JP(58-178042) discloses a system comprising a tensioner (fig. 6), a drive pulley (32) coupled to a belt (39), the pulley has a slack span and a tight span on opposite sides thereof. The tensioner comprises a first and second arm (40-4, 40-5), each arm is rotatable coupled to a pulley (44, 46), such that one pulley is coupled to the tight span and the other is coupled to the slack span.

In claims 2 and 11, note the arms are maintained at a constant angle with respect to each other.

In claims 4-5 and 12, it is apparent that the tensioner is configured to perform positive take-up and it is also apparent that when the system is being driven

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one of the pulleys (44, 46) coupled to the tight strand generates a desired tension on the slack span.

In claim 7, note from the convention symbol of metal in fig 5, it appears that the arms are made of rigid metal.

In claims 8 and 15, it appears that the tight span is created on the exit side of the drive pulley (32) and the slack span is created on the exit side of the auxiliary pulley (38).

Regarding claims 9-12 and 15, it is apparent that the method steps would be inherently included during the utilization of the JP(58-178042) device.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6, 13-14, 21, 24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP(58-178042) in view of Cancilla(4,069,719). JP(58-178042) does not disclose that the tensioner comprises a resilient device. Cancilla discloses a tensioner comprising a resilient device (23) and it appears that the torque on the resilient device is less than the counteracting torque generated by a force imparted by a first arm (18) in the tight span and the second arm (17) coupled to the slack span in order to maintain the desired tension in a desired direction during operation. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention

to modify the tensioner arms of JP(58-178042) so as to include a resilient device in view of Cancilla and such that the torque on the resilient device is less than the counteracting torque generated by a force imparted by a first arm in the tight span and the second arm coupled to the slack span in order to maintain the desired tension in a desired direction during operation.

Regarding claims 13-14, it is apparent that the method steps would be inherently included during the utilization of the JP(58-178042) in view of Cancilla device.

Regarding claims 9 and 19, in JP(58-178042), it is apparent that one of the pulleys is a driving pulley and the other is a driven pulley and the

In claims 21 & 24-25, Cancilla clearly disclosed the resilient device (23) contacting the arms (16, 17).

In claim 23, JP(58-178042) clearly disclosed the claimed invention.

In claims 25 and 26, it is apparent the pulleys are driving and driven pulleys.

Response to Arguments

9. Applicant's arguments filed 08-11-2003 have been fully considered but they are not persuasive. In response to applicant argument that the prior art does not disclose an AGS pulley. It should be not that the invention is directed to a system comprising a tensioner, and that system comprises a plurality of pullers and tensioner tensioning a belt entrained around a pulleys. Whether that pulley is an AGS or any other named pulley does not change the scope of the invention. No AGS system was ever claimed. Therefore, by calling the pulley an AGS pulley does not change the scope of the invention nor the rejection. The system can be operated in the same manner without


using the term "AGS". The phrase "AGS pulley" is considered as another name for a pulley and the term "AGS" is not given any patentable weight because there is no particular claimed structure of the pulley that associates the pulley with an AGS system.

~~There is substantial evidence in the claim that the pulley is connected to any other~~
device, such as an AGS. In addition, no AGS system was ever shown in the drawing.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (703) 305-6877. The examiner can normally be reached on Monday -Thursday 7:30 am-600 pm.


Marcus Charles
Primary Examiner
Art Unit 3682
October 30, 2003.